

REMARKS

Claims 5-7 and 10 are all the claims pending in the application, claim 14 having been canceled as indicated herein. Applicant thanks the Examiner for indicating that claims 5-7 are allowed. Claim 10 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Froschermeier (U.S. Patent No. 5,525,992) in view of Tanaka (U.S. Patent No. 6,011,483), and further in view of Burgess (U.S. Patent No. 6,031,465). Claim 14 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over O'Tool (U.S. Patent No. 6,130,602) in view of Matsuszewski.

§103(a) Rejections (Froschermeier/Tanaka/Burgess) - Claim 10

The Examiner maintains the rejection of claim 10 based on the reasons set forth on pages 2-3 of the present Office Action, and adds a few new arguments in the *Response to Arguments* section of the present Office Action. Applicant traverses these rejections at least based on the following reasons.

With respect to claim 10, Applicant previously argued that the Examiner appears to believe that only Burgess satisfies the specific features set forth in claim 10 with respect to the vibration detecting switch control unit. The Examiner alleges that Burgess teaches an on vehicle DSRC apparatus with power saving features comprising a vibration detecting switch control unit to power on and off when the vibration is at a predetermined level (col. 5, lines 21-51). Applicant argued that even if, *arguendo*, a vibration detecting switch control unit of Burgess powers on and off when the vibration is at a predetermined level, nowhere does Burgess disclose or suggest the specific feature of turning off a second power switch when a vibration level is

lower than a predetermined level and that the second power switch is turned on upon detection of the vibration at a level higher than said predetermined level. In response, the Examiner alleges:

Burgess does teach power up to the apparatus at three taps and the vibration level can be programmable (see Office Action above). Since the level of vibration to detect can be programmable, a designer can design an apparatus to be power up or power down at any vibration level as will.

In response, Applicant submits that the Examiner has obviously utilized impermissible hindsight reasoning in determining that the above-discussed feature is taught or suggested by the applied references. Nowhere do the applied references disclose or suggest these features. The strongest argument that the Examiner has is that a designer possibly could have designed an apparatus to be powered up or powered down at any vibration level at will. The Examiner is using hindsight reasoning in making this conclusion

Further, the Examiner alleges:

In response to Applicant's arguments against the references individually (second power switch) one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F. 2d 413, 208 USPQ 871 (CCPA1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant was not attacking the (combined) references individually, but was simply responding to specific arguments of the Examiner in which she indicated that certain limitations are satisfied by specific individual references. Applicant traversed some of the Examiner's allegations by pointing out how specific applied individual references do not satisfy the features that they are alleged to satisfy. Further, Applicant reiterates that none of the applied references, either alone or in combination, renders claim 10 unpatentable.

§103(a) Rejections (O'Tool / Matsuszewski) - Claim 14

Claim 14 is canceled as indicated herein without prejudice or disclaimer.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

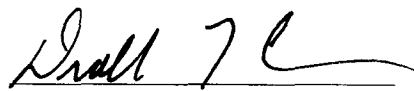
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